



“The City With a Heart”

Larry Franzella, Mayor
Jim Ruane, Vice Mayor
Ken Ibarra, Councilmember
Irene O’Connell, Councilmember
Chris Pallas, Councilmember

MINUTES

CITY COUNCIL REGULAR MEETING

March 22, 2005

THIS IS TO CERTIFY THAT:

The San Bruno City Council met in regular session on Tuesday March 22, 2005, at 1555 Crystal Springs Road (Senior Center) and the meeting was called to order at 7:00 p.m.

Mayor Franzella thanked the **San Bruno Garden Club** for providing the beautiful floral arrangement.

1. ROLL CALL: Presiding was Mayor Franzella with Councilmembers Ruane, Ibarra, Pallas, and O’Connell in attendance. Recorded by City Clerk Simon.

City Manager Connie Jackson led the Pledge of Allegiance.

PRESENTATIONS:

Mayor Franzella will present a 25-year Service Award and Pin to employee Ignacio Centinaje from the City’s Cable TV department at next City Council meeting.

ANNOUNCEMENTS:

- a. Delegation of students and City Officials from our **Sister City, Narita Japan**, will visit San Bruno March 24-30, 2005.
- b. **Caltrain to Host Open House**, on Wednesday March 23, 2005, from 7 – 9 p.m. Caltrain will present information and answer questions on the San Bruno/South Linden Avenue grade separation and station relocation project during an open house held in Belle Air Elementary School located at 450 3rd Avenue San Bruno.

Vice Mayor Ruane said the Citizens Advisory Committee on the Caltrain Grade Separation and Station Design would have their meeting this Thursday at City Hall starting at 6:00 p.m. and the Public is invited.

2. REVIEW OF AGENDA: No changes were made.

3. APPROVAL OF MINUTES: For special joint meeting of the City Council and Redevelopment Agency of March 1, 2005, the regular City Council meeting of March 8, 2005. Minutes were approved as submitted.

4. CONSENT CALENDAR: All items listed are considered routine or implement an earlier Council action and may be enacted by one motion; there will be no separate discussion unless requested by Councilmember, citizen or staff.

- a. **Approve: Payroll** of March 11, 2005.
- b. **Approve: Accounts Payable** of February 21, 2005. (Council Packets Only, copy is available for review at the City Clerk’s office.)
- c. **Accept: Reconciliation of General Ledger** to bank reports and the **Investment** reports dated February 28, 2005, by City Treasurer Karen Hornung.

- d. **Approve: Out-of-State travel to Las Vegas, NV** for Steve Firpo, Programming and Technology Manager to attend the National Association of Broadcasters convention April 19 to 22, 2005.
- e. **Approve:** Appoint Representative to the Board of the Colma Creek Flood Zone Advisory Committee, with Term Ending March 31, 2009.

End of Consent Calendar

M/S Ibarra/Ruane to approved the consent calendar and passed with a unanimous vote.

5. PUBLIC HEARINGS: (Notices have been published, posted, and mailed.)

- a. Hold public hearing and adopt resolution **approving position description and salary schedule** for Community Development Technician I, II, and III.

Councilmember Ibarra complimented Terry Jackson, Interim Community Development Director, for pulling this department together with her leadership and he has heard nothing but good things about the improvements to customer service.

Mayor Franzella opened the public hearing.

No member of the public wished to comment.

M/S Ibarra/Ruane to close the public hearing and passed with a unanimous vote.

Councilmember Ibarra introduced the both resolutions for adoption with a roll call vote of all Ayes.

- b. Hold public hearing to allow City Council review of Planning Commission decision made February 15, 2005, to approve a conditional use permit allowing **installation of a wireless communications facility** adjacent to City Water Tank at Junipero Serra Freeway in City Open Space land behind 455-465 Cunningham Way, per Chapter 12.112 & 12.96 of the San Bruno Zoning Ordinance. San Bruno Municipal Code Chapter 12.210 allows the City Council to review any decision of the Planning Commission.

City Manager Jackson explained the procedure to conduct a “de novo” hearing.

Planning Manager Aknin reviewed the Planning Commission’s action and subsequent recommendations by staff regarding this use permit request.

Mr. Aknin said the proposed facility is in compliance with Federal Law (FCC regulations) and the engineer completing the report is in attendance tonight. Since the Planning Commission meeting, two conditions have been added to mitigate the concerns of the neighbors. First, a mono-pine tree pole will be used and second, the applicant will be required to submit detailed quarterly reports on the RF transmissions the first year and annually thereafter. Staff recommends the City Council approve this use permit request.

Mayor Franzella asked the applicant to address the Council before the public hearing is opened.

Tom Spalding, representing Cingular Wireless, formerly AT&T, said the main objective of this site is to obtain coverage in an area where there is very poor service. The antennas will face northwest and southwest away from the Cunningham Way residents. Cingular met the design standards required by the City of San Bruno. Cingular agrees to switch to a mono-pine tree pole and quarterly testing. Please honor the approval of the Planning Commission so Cingular can build a complete network for its customers.

Councilmember Ibarra asked where is the next closes Cingular site in San Bruno? Mr. Spalding replied one mile away in an open space area.

Councilmember Ibarra asked how do we know the antennas will be pointed away from the residents? Mr. Spalding replied the building department would verify upon completion of the structures.

Mayor Franzella requested the engineer address the City Council.

Matthew Runte, P.E. from Diamond Services Benicia, CA. said he prepared the Radio Frequency (RF) analysis. The RF levels do not exceed the standards set by the FCC.

Vice Mayor Ruane said since the antennas are pointing north and south there is less exposure for the residents. Do these RF's compound when you are using cell phones, toasters, TV, etc.? Mr. Runte replied these are all on different frequencies than the cell site but would compound the total result.

Councilmember Ibarra said reports have been written that these sites are difficult to monitor and readings have been way off in the past, up to 250% over the legal limit.

Mr. Runte said he has not heard of such a thing, there is an absolute maximum of two times the legal limit built into the systems.

Vice Mayor Ruane asked how this site would be powered and is there any noise? Mr. Runte replied PG&E would provide the power to the site and the only noise would be a cooling unit similar to a refrigerator.

Councilmember Pallas said he spent three years working with radar and was told people become sterile from radar waves but he had children and there is no proof of this claim. There is more radiation from older TV sets. The main thing is we will monitor the site and make sure the readings are at safe levels.

Mayor Franzella opened the public hearing:

Alan Lubke of Fleetwood Drive said he has been a Cingular customer for five years and he lives in a "dead" zone. This is a great thing to provide better service on this corridor.

Hank Craft of Fasman Drive asked if the City would receive rent from this site? Mayor Franzella replied yes, as with any cell site on private or city owned property.

Tim Delury of Cunningham Way said the easement for access to this property runs next to his home. Statements were made in the report that this is esthetically pleasing and in keeping with the residential character of the neighborhood and he disagrees. He has not seen other cell sites in neighborhoods and they should be pointed out. The photos taken were at an advantage angle for the cell company. If you are selling your property it may be affected. Currently there are trucks going to the water tower, how often are maintenance trucks going to the cell site? There was erosion on the hill during the 80's, how do we know there is a stable environment and who is responsible if a slide starts?

Mark Fabela of Cunningham Way asked if this is about the money or a need for a cell phone tower? The residents of Cunningham Way will not benefit. The main concern is the RF signals from the tower. There is a pre-school nearby. This will depreciate the property values.

Eddie Woo of Cunningham Way asked if you would buy a home with a tower in back? When the Sutro tower was built in San Francisco the nearby property values went down. I don't want to be a guinea pig until it is proven safe.

Mike Kaiser of 5th Avenue said there are cell sites on top of Fire Station 51 on El Camino Real and three cell sites in the Belle Air Park area.

Doctor Khoury of Cunningham Drive said we do not want this tower in our back yard. The level of radiation is not safe. We had problems with slides and this tower may cause future slides.

Tim Delury of Cunningham Drive said what happens if the power goes down. Will there be a backup generator? What is the noise level?

Roberto Flores of Cunningham Drive asked if the Council considered other locations for this cell site?

M/S Ibarra/Ruane to close the public hearing and passed with a unanimous vote.

Mayor Franzella asked the staff to answer questions raised during the public hearing.

City Manager Jackson replied the building permit stage would address the soil erosion. The City could make the applicant sign a statement making Cingular responsible for any damage caused by erosion.

Manager of Planning Aknin said in regards to other sites in neighborhoods, a recent approval was granted to a site near the San Bruno Avenue Water Tank with homes immediately behind the tower. A mono-pine tree pole was used and the site is barely visible. There have also been cell sites approved on El Camino Real, which are closer to homes than the location being considered tonight.

Councilmember Ibarra said he does not recall a prior application for a cell site at this area 5 or 7 years ago and staff replied they have no record of such a request. What about the application, which was denied for a site at Gundy Park on Cherry Avenue? City Manager Jackson replied there was never an application made. This was just a proposal and some discussions with staff in conjunction with a park restroom project. The Parks and Recreation Commission reviewed and felt Grundy was an active park and the size and use was not compatible with the primary use of the property.

Councilmember Ibarra asked the City Attorney to explain the federal law as it applies to approval of cell phone sites.

City Attorney Thompson said in 1996 Congress passed the Communications Act, which preempts what cities and states can consider when reviewing these permits. While the City Council can consider esthetics and land use it cannot consider environmental and health effects such as radio frequencies provided the applicant has shown he has met the FCC guidelines.

Councilmember Ibarra asked what position this would put the City in if we denied the applicant a use permit because of unknown health effects?

City Attorney Thompson replied it would expose the City to a lawsuit. San Francisco recently had an experience with Metro PCS and lost a lawsuit. PCS claimed they were being prevented from filing a gap in their cell phone service.

Mr. Spalding from Cingular said the operation would be 24 hours per day but the maintenance would be once per month. Currently there is no generator at the site and a temporary one would be used if there were a power lost for a long period of time. The fan cooling the site operates at 40 decimal sound levels.

Mayor Franzella asked what would happen if a generator was prohibited at this site?

Mr. Spalding said it could be a condition of approval but this would prevent the site from being used during a time when cell phones are needed.

Mayor Franzella asked if other sites were considered instead of this one?

Mr. Spalding replied yes other sites were looked at; however, these did not meet the design standards required of the City of San Bruno and would not solve the problem of coverage.

Councilmember Ibarra asked if an erosion plan was provided for this site?

Mr. Spalding said a soils report could be provided; however, this is part of the building permit process.

Councilmember Pallas asked what size generator would be required to operate the site in case of a power outage. Mr. Spalding said a maximum of 1000 watts.

Mayor Franzella stated the City is not a partner with Cingular and they could locate the site where they feel it is best for their network, even in a nearby City. Like a private property owner the City will receive rent and while it is a good sum of money, he believes it is better for the residents if the City, who doesn't

just care about the money and is easy to contact, owns the property. He asked the applicant what other sites were looked at?

Mr. Spalding replied there were sites to the south but these did not have the visual screening from trees and there were height restrictions. These other sites would not be close enough to cover the “gap” in service area.

Councilmember Ibarra asked if Cingular was installing towers at any other sites?

Mr. Spalding replied no others were planned.

Mayor Franzella said the Council should have an ordinance with all these restrictions placed in it so all cell sites are treated the same. He asked if the Council should table this matter until an ordinance is in place?

City Attorney Thompson replied she is concerned about whether the applicant is entitled to proceed under the law that currently exists. More research may be needed.

Councilmember Pallas asked if the City could require the generator be housed in a sound proof building?

Mayor Franzella said an additional building may cause other problems and just prohibiting a generator may be best.

City Attorney Thompson said there is nothing prohibiting the Council from imposing additional restrictions, which may be adopted in some future ordinance as long as we are consistent in placing the same reasonable conditions to all applicants.

Councilmember O’Connell asked the applicant to give details on the construction time line and maintenance required at this site.

Mr. Spalding said the construction would take 3 weeks and access would be from the same road the City uses to get to the water tank. Only monthly maintenance of equipment is required at this site.

Councilmember Ibarra asked about the new turn out parking area required on site.

Mr. Spalding replied the City is requiring a new 20 by 12 feet turn out be installed.

Councilmember Ibarra said this is a sensitive issue and understands the concerns of the residents; however, a lawsuit would most likely allow the company to install this cell site. He requested staff include the condition of a soils report and make results available to the residents.

Councilmember Ibarra made a motion to accept the Planning Commission’s approval of the use permit.

Councilmember O’Connell seconded the motion.

Mayor Franzella clarified the motion includes the two conditions recommended by staff and the soils report but we still need a decision on the generator?

City Manager Jackson said the code requires the generator not exceed certain noise levels.

Mayor Franzella said with no restrictions, the generator could be on for 3 weeks or more at a time.

Councilmember Pallas said this is a small gas generator, which will make very little noise, and why not try it and see if there will actually be a problem.

City Manager Jackson said a special permit approved by the City Manager for emergency use of a generator is possible; otherwise, Council could just prohibited its use at this site.

Vice Mayor Ruane wanted clarification from the City Attorney that in addition to the soils report, there would be indemnification for the City and residents from any soil erosion caused by the cell site.

City Attorney Thompson replied the lease agreement already addresses public property. The applicant could sign a statement that any disturbance or damage to private property be returned to its original condition. It was agreed to include this condition in the motion on the floor.

Mayor Franzella asked that an additional condition on the use of a generator be included to allow for Council action to revoke permission given by staff. Such an approval of time by City staff will not exceed the next scheduled City Council Meeting.

Councilmember Ibarra said he wanted one last condition included. The staff would ensure adequate landscaping and screening from all areas of Cunningham Drive. It was agreed to include in the motion. Mayor Franzella called for the question and the motion passed with a unanimous vote.

6. UNFINISHED BUSINESS:

- a. Waive second reading and adopt Ordinance No. 1700 repealing Section 11.24.060 of the San Bruno Municipal Code and adding new Chapter 6.50 Pertaining to the Sale, Use, and Discharge of **“Safe and Sane” Fireworks**.
- b. Adopt resolution-establishing rules and regulations pertaining to **Temporary Fireworks stand permits** pursuant to San Bruno Municipal Code Section 6.50.060.

City Attorney Thompson stated she is recommending three minor revisions to the resolution. First, on page 1 after “now, therefore, be it resolved, and be it further resolved had the effective date of April 22, 2005, and these dates should be eliminated and the resolution would be effective immediately. Second, on page 3 under Section 3 B. the application deadline shall be determined by the City Council should be changed to the City Clerk, who will announce the deadline on a City Council agenda. Third, on page 6 under Section 11, item 7, insurance requirement be changed to California-admitted insurer with a Best’s rating of no less than A: XI is permissible.

Mayor Franzella opened the public hearing on both items and requested anyone wanting to comment to please do so at this time.

Hank Craft of Fasman Drive wanted to talk about landscaping in the City and Mayor Franzella asked that he wait until public comment on items not on the agenda.

Mayor Franzella closed the public hearing. **M/S Ibarra/Ruane** to waive the second reading of the ordinance and passed with a unanimous vote.

Councilmember Ibarra introduced the ordinance for adoption with a roll call vote of all ayes.

Councilmember Ibarra introduced the resolution for adoption with the three changes recommended by the City Attorney. Passed with a roll call vote of all ayes.

7. CALL FOR, PRESENTATION OF BIDS, and AWARD OF CONTRACT. None

8. COMMUNICATIONS: None

9. STAFF REPORTS: None

10. REPORT OF CITY ATTORNEY - RESOLUTIONS & ORDINANCES: None

11. PUBLIC COMMENT ON ITEMS NOT ON AGENDA:

Hank Craft of Fasman Drive said he is a 28-year resident and has seen the City go downhill. There are weeds everywhere and very little landscaping. We don't need SUV vehicles for the Fire and Police departments. People are not going downtown because it looks dirty. We should hire retired people to clean up the City. The City has a reputation of being only one step above Pacifica.

Councilmember Ibarra said he is proud of our City. There have been changes and efforts from this Council to improve downtown. When you cut \$6 million dollars from the budget you do get behind. We have adopted Code Enforcement policies but it will take time to get to all the problems areas.

Councilmember Pallas said we have the best Senior Center and Fire Department in the County. There are bad things surely but good things out weigh them such as our beautiful parks and trees.

Alan Lubke of Fleetwood Drive said he is the Founder of San Bruno Citizens for Good Signage. His goal is to promote safety from good signage. Eighteen months after BART opened, signs were placed at El Camino Real and 380; however, the second request to place a sign on San Bruno Avenue West bound has not been complete. Southbound drivers on El Camino Real do not have BART signage. Advertising the "Easter Egg Hunt" with the safety direction sign is not a good use of equipment.

Mike Kaiser of 5th Avenue read a Certificate of Commendation given to the Project Pride Committee from Colonel Hunter of the 23rd Marine Regiment. It was given to City Clerk to display at City Hall.

Rose Urbach of Euclid Avenue said the City is pushing too many big projects. The Navy Site and the Tanforan Site looks like a tornado hit it. The Grade Separation where I live surrounds me as well as the transmission lines being dug under San Bruno Avenue. The planters on San Mateo Avenue where to have plants and flowers but this was not done and they are not pretty.

12. REPORT OF COMMISSIONS, BOARDS, & COMMITTEES:

a. Caltrain Council Ad Hoc Committee (Ruane/Ibarra) announced the Citizens Advisory Committee for Caltrain Preferred Grade Separation and Station Design would hold its next meeting on Thursday March 24, 2005 at 6:00 p.m. at City Hall 567 El Camino Real in the Sister City Conference Room number 115. The public is invited to attend.

b. Beautification Task Force (O'Connell) announced plans for the 7th Annual **Operation Clean Sweep** to be held on Saturday May 7, 2005. This year's motto, "Plant Pride not Litter".

Councilmember O'Connell said mark your calendars please. Please sign up on line or call the special phone hot line number, which is displayed on Channel 11.

Councilmember Pallas, Chair of the Project Pride Committee, reported on the 26th Annual Easter egg hunt. He thanked all who worked and it was a great success. Over 200 children were taken care of.

13. NEW BUSINESS: None

14. ADJOURNMENT: With no other business to transact, the meeting adjourned at 8:45 p.m. to the next regular City Council meeting of Tuesday April 12, 2005, 7:00 p.m. at the Senior Center, at 1555 Crystal Springs Road.

**Respectfully submitted for approval
at the regular City Council meeting
of April 12, 2005**

Ed Simon, City Clerk

Larry Franzella, Mayor